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Filing date: **11/20/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91215246
Party	Defendant Empire Resorts, Inc.
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Signature	/Darcy A. Williams/
Date	11/20/2014
Attachments	28205336_1_MOTION FOR PROTECTIVE ORDER (AS FILED 11_20_14) 91215246.PDF(101774 bytes )

**THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

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LVGV LLC	:	Opposition 91215246
	:	
	Opposer	: Application 85/736,471
v.	:	
	:	Mark: "M (stylized)"
Empire Resorts, Inc.	:	
	:	Class: 28
	Applicant	:
	:	Interlocutory Attorney:
	:	Andrew P. Baxley

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**APPLICANT’S MOTION FOR PROTECTIVE ORDER**

Applicant, Empire Resorts, Inc. ("Empire"), moves the Board for a Protective Order relating to Empire’s obligation to serve responses and objections to Opposer LVGV, LLC’s (“LVGV”) First Set of Interrogatories.

On October 7, 2014, LVGV served a consolidated First Set of Interrogatories and Requests for Production of Documents on Empire in this proceeding as well as two other separate proceedings relating to Empire’s applications to register its “M (stylized)” mark in classes 28, 41, and 43.

On November 4, 2014, LVGV authorized a two-week extension of time for Empire to respond to the outstanding discovery requests. Empire’s responses were consequently due on or before November 20, 2014.

Although Empire is able to timely respond to LVGV’s Request for Production of Documents, Counsel for Empire has recently been struggling with extremely time-consuming

patent infringement litigation in the United States District Court for New Jersey in the matter of Ronald Mark Associates, Inc. v. StonCor Group, Inc., No. 1:13-CV-07446-RMB-JS. Empire's Counsel is unable to coordinate with Empire's employees to adequately respond to LVGV's First Set of Interrogatories. Responding to LVGV's First Set of Interrogatories by November 20, 2014, represents an undue burden to Empire.

Based on the above good cause, and pursuant to 37 CFR § 2.120(f), Empire respectfully requests that the Board enter a Protective Order specifying that Empire's answers and objections to LVGV's First Set of Interrogatories are due thirty (30) days from the date hereof, December 20, 2014.

**FOX ROTHSCHILD LLP**

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Date: November 20, 2014

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**CERTIFICATE OF SERVICE**

I, Darcy A. Williams, of full age, by way of certification, state that a copy of Applicant Empire Resorts, Inc.'s Motion for Protective Order was served on Opposer's counsel on the date set forth below via electronic mail addressed as follows:

Hara K. Jacobs  
Troy Larson  
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1735 Market Street, 51<sup>st</sup> Floor  
Philadelphia, PA 19103  
jacobsh@ballardspahr.com  
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Date: November 20, 2014

/Darcy A. Williams/  
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	Applicant	:
	:	Interlocutory Attorney:
	:	Andrew P. Baxley

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**DECLARATION OF DARCY A. WILLIAMS**

1. I, Darcy A. Williams, hereby declare that I am a lawful resident of the United States, residing at 56 Stone Hill Drive, Pottstown, Pennsylvania, 19464, a staff attorney in the law firm of Fox Rothschild LLP having my principal office at 747 Constitution Drive, Suite 100, Exton, Pennsylvania, 19341, a member in good standing of the Bar of the Supreme Court of the Commonwealth of Pennsylvania holding registration number 201072 therein, and am an attorney of record for the applicant, Empire Resorts, Inc., in the above-referenced matter.

2. On October 7, 2014, LVGV served a consolidated First Set of Interrogatories and Requests for Production of Documents on Empire in this proceeding and as well as two other separate proceedings relating to Empire's applications to register its "M (stylized)" mark in classes 28, 41, and 43.

3. On November 4, 2014, LVGV authorized a two-week extension of time for Empire to respond to the outstanding discovery requests. Empire's responses were consequently due on or before November 20, 2014.

4. Empire is able to timely respond to LVGV's Request for Production of Documents, but Counsel for Empire has recently been struggling with extremely time-consuming patent infringement litigation in the United States District Court for New Jersey in matter of Ronald Mark Associates, Inc. v. StonCor Group, Inc., No. 1:13-CV-07446-RMB-JS. Empire's Counsel is unable to coordinate with Empire's employees to adequately respond to LVGV's First Set of Interrogatories.

5. Although Empire and LVGV had previously engaged in good faith efforts to extend the deadline for Empire to respond to discovery, based on the representations made in LVGV's response to Empire's Motion for Judgment on the Pleadings, seeking further discovery extensions from LVGV would clearly be pointless.

6. I hereby declare, under penalty of perjury pursuant to 28 U.S.C. § 1746, that all statements made herein are true and that all statements made herein on information and belief are believed to be true and further that I realize that false statements and the like so made herein are punishable by fine, or imprisonment or both, under 18 U.S.C. § 1001 et seq.

Respectfully submitted,

**FOX ROTHSCHILD LLP**

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Dated: November 20, 2014